

In the Court of Jatinder Pal Singh Khurmi, Additional Sessions
Judge, Hoshiarpur. (UID No.PB-0057).

CNR No.PBHO01-008456-2022

CIS Number: 2930 of 2022

Date of Order: 23.11.2022.

- 1) Geeta, aged 34 years wife of Raja,
- 2) Jaswant Kaur, aged 33 years wife of Amrik Singh,
- 3) Manga, aged 27 years son of Sohan Lal, all residents of Denowal Khurd, Police Station Garhshankar, District Hoshiarpur.

.....Applicants-accused.

Versus

State of Punjab.

.....Respondent.

AND

CNR No.PBHO01-008503-2022

CIS Number: 2950 of 2022

Date of Order: 23.11.2022.

- 1) Kamaljit Singh, aged 37 years son of Jarnail Chand,
- 2) Sarabjeet Kaur, aged 53 years wife of Major Ram,
- 3) Major Ram, aged 58 years son of Bujha,
- 4) Hardeep Kaur, aged 32 years wife of Gurlal,
- 5) Geeta Rani, aged 36 years wife of Balvir Singh,
- 6) Sagar, aged 20 years son of Jagiri Ram,
- 7) Manjit Kaur, aged 60 years wife of Jagiri,
- 8) Jagiri, aged 51 years son of Bujha Ram,
- 9) Balbir Singh, aged 46 years son of Sant Ram,
- 10) Darsho, aged 65 years wife of Jaila, all residents of Denowal Khurd, Police Station Garhshankar, District Hoshiarpur.

.....Applicants-accused.

Versus

State of Punjab.

.....Respondent.

FIR No.209 dated 15.11.2022.

U/ss 15-18-21-22-29-61-85 of ND&PS Act.

Police Station Garhshankar, Hoshiarpur.

(Two applications for anticipatory bail U/s 438 Cr.P.C).

Present: Shri Sandeep Kumar Sharma, Counsel for the applicants-accused.
Shri Nitin Berry, Addl. Public Prosecutor for the State.

ORDER:

1. This order of mine shall dispose off four bail applications i.e. first application filed by applicants-accused Geeta, Jaswant Kaur and Manga and second application filed by applicants-accused Kamaljit Singh, Sarabjeet Kaur, Major Ram, Hardeep Kaur, Geeta Rani, Sagar, Manjit Kaur, Jagiri, Balbir Singh and Darsho, who are seeking anticipatory bail in FIR No.209 dated 15.11.2022, under Sections 15-18-21-22-29-61-85 of ND&PS Act, pertaining to Police Station Garhshankar, Hoshiarpur.
2. It is pleaded that the above said case was registered by the police of Police Station Garhshankar against the applicants-accused. They are innocent and have been falsely implicated on the basis of a concocted story of police. Nothing is to be recovered from the applicants-accused. The presentation of challan and its conclusion will take time. The applicants-accused undertook to abide by terms of bail and prayed for granting them anticipatory bail in the event of their arrest.
3. Upon notice, Learned Additional Public Prosecutor for State has orally opposed the bail application. Even ASI Ravinder Singh No.929/HPR, from Police Station, Garhshankar, District Hoshiarpur, has suffered statement that he has verified that this is the first bail application of applicants-accused and no such bail application is either filed or pending in court of parallel jurisdiction or any other court or Hon'ble High Court.
4. I have heard the arguments advanced by Learned Counsel for the applicants-accused and Learned Public Prosecutor for State and also have gone through the record carefully and minutely, with their kind assistance.
5. Present FIR was got registered by Inspector Karnail Singh No.415/JR, against 120 accused persons including the applicants-accused. It is narrated in the FIR that police party headed by Inspector Karnail Singh was on

patrolling duty on Government and private vehicles for checking of suspected persons and were present at Chandigarh Chownk, Garhshankar where secret information was received that Surjit Singh son of Nandu Ram and other accused persons including the applicants-accused, all residents of Village Denowal Khurd, Police Station Garhshankar, are indulging in selling poppy-husk, smack, white powder (*Heroin*) and other intoxicant substances like intoxicated capsules and tablets. They used to sell the intoxicant substances in nearby Villages and are well known smugglers, spreading bad affects in the society. Earlier also, cases have been registered against some of the accused. It was further informed that the culprits are swinging the youth in the trap of intoxicant substances and if raid is conducted, they could be apprehended with heavy quantity of intoxicant substances. On believing the information to be reliable, Ruqa was sent to the Police Station through Constable Kinder Singh No.685/HPR, for registration of case under Sections 15,18,21,22-61-85 of ND&PS Act. Accordingly, case was registered. However, as per record, accused Surjit Singh son of Nandu Ram, Nirmala wife of Surjan, Giano wife of Sohan Lal were arrested with recovery of 72 gram intoxicant powder whereas accused Parveen wife of Jatinder alias Happy was arrested with 16 gram '*Heroin*'.

6. Learned Counsel for applicants-accused has argued that no any recovery was effected from the applicants-accused and they have been falsely involved by the police in this case. Even otherwise, the disclosure statement of co-accused is not admissible, as such benefit of anticipatory bail should be granted to the applicant.

7. On the other hand, Learned Additional Public Prosecutor for the State has argued that applicants-accused were nominated in this case as they

are indulging in selling heavy quantity of intoxicant substances in surrounding Villages to their customers and are habitual smugglers, hence the applicants-accused should not be granted benefit of anticipatory bail.

8. In this case, applicants-accused and other co-accused have been booked for committing offence of supplying intoxicant substances to their customers in different Villages by forming racket. As per police record, accused Surjit Singh son of Nandu Ram, Nirmala wife of Surjan, Giano wife of Sohan Lal were arrested with recovery of 72 gram intoxicant powder whereas accused Parveen wife of Jatinder alias Happy was arrested with 16 gram 'Heroin'. The applicants-accused are stated to have indulging in supplying and selling the intoxicant articles at large scale.

9. Moreover, reliance was placed upon "**Yashpal Versus State**" CRM-37743 of 2022 (O&M), decided on 25.8.2022", the relevant portion of which is reproduced hereunder:

"The NDPS Act is self contained statute which specifically deals with menace of drugs. Stringent provisions have been provided therein for dealing with such cases. The ground that the petitioner was only named by the secret informer is itself cannot be sole consideration for grant of pre-arrest bail. A deeper probe is required to unearth the modus-operandi and chain of supply. Further, as to whether it is a case of false implication or not, would be a subject matter of investigation".

10. The Hon'ble Supreme Court in "**Criminal Appeal No.1005 of 2002 titled State of Haryana Versus Samarth Kumar, decided on 20.7.2022**", has held that *advantage of the fact that no recovery was/is to be effected from the petitioner and that the petitioner has been indicated on the disclosure statement of the co-accused, as held in 'Tofan Singh Versus State(2021) 4 SCC-1', can be taken into consideration while dealing with the regular bail application or at the time of final hearing after conclusion of the Trial.*

11. Even, the menace of drugs is increasing day by day spoiling careers of youth. To know the nexus between Mafia and applicants-accused is to be unearthed, the custodial interrogation of applicants-accused is very much required. So, placing reliance upon this case law and keeping in view the facts and circumstances of the case, applicants-accused are not entitled to benefit of anticipatory bail. Resultantly, bail applications filed by applicants-accused Geeta, Jaswant Kaur, Manga, Kamaljit Singh, Sarabjeet Kaur, Major Ram, Hardeep Kaur, Geeta Rani, Sagar, Manjit Kaur, Jagiri, Balbir Singh and Darsho, under Section 438 Cr.P.C, for grant of anticipatory bail are dismissed, being without merits. In the light of law referred above, the applicants-accused are directed to surrender and to apply for regular bail. Police record returned and bail application be attached with the remand papers.

Announced in open Court:
Dated: 23rd November, 2022.
'Gautam Manocha, JW (SG)'

(Jatinder Pal Singh Khurmi),
Judge, Special Court, Hoshiarpur.
(UID No.PB-0057).

Kamaljit Singh & Others Versus State. BA No.2950-2022.
(CNR No.PBHO01-008503-2022).

Present: Shri Sandeep Kumar Sharma, Counsel for the applicants-accused.
Shri Nitin Berry, Addl. Public Prosecutor for the State.

Police record received and perused. Statement of ASI Ravinder Singh No.929/HPR, from Police Station, Garhshankar, District Hoshiarpur, has been recorded. Arguments heard. Vide my separate detailed order of even date, in this main application titled as “*Geeta & Others Versus State*”, filed under Section 438 Cr.P.C, for grant of anticipatory bail, this application filed by applicants-accused Kamaljit Singh, Sarabjeet Kaur, Major Ram, Hardeep Kaur, Geeta Rani, Sagar, Manjit Kaur, Jagiri, Balbir Singh and Darsho, has been dismissed, as detailed therein. Police record returned and bail application be attached with the remand papers.

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Dated: 23rd November, 2022.
‘Gautam Manocha, JW (SG)’

(Jatinder Pal Singh Khurmi),
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